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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,059	02/19/2002	Harry Wotton III	2839.1001-003	5944
32488	7590	11/17/2009		
Iandiorio Teska & Coleman 260 Bear Hill Road Waltham, MA 02451			EXAMINER OU, JING RUI	
			ART UNIT 3773	PAPER NUMBER
			MAIL DATE 11/17/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/079,059	Applicant(s) WOTTON, HARRY	
	Examiner JING OU	Art Unit 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed on 07/09/2009. Claim 52 is pending and independent. Claims 1-51 are cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Songer et al (US Pat. No.: 5,741,260).

In regard to Claim 52, Songer et al discloses a method for crimping a crimp tube comprising: attaching a suture (**42**) to a biological component (**52**, Fig. 3); placing the suture within a crimp tube (**36**, Fig. 4); attaching a first crimp device (**first 36**, the first 36 and the crimp tube 36 are the same, Fig. 8) to a first end of the suture and a second crimp device (**second 36**, Fig. 8) to a second free end of the suture (Fig. 4 and Col. 4, lines 6-26); actuating at least one end of the suture to adjust the tension of the suture

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(Col. 4, lines 6-10); engaging the first crimp device and the second crimp device using a tensioning device (**combination of 10 and 50**) to adjust the tension of the suture (Col. 4, lines 6-10); and securing the suture within the crimp tube (Col. 4, lines 6-10) by crimping the crimp tube using a crimping tool (**10**) having a first crimping member (**30a**) with first inner surface width and a second crimping member (**30b**) with a second inner surface width (Col. 4, lines 20-26), the first inner surface width and the second inner surface width limiting the deformation on the crimping tool is paced in a closed position (Fig. 4).

Songer et al does not appear to disclose crimping the first crimp tube in at least three but not more than five locations. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to compression the crimp tube in at least three locations but not more than five locations, since it has been held that were the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Alternatively, it is obvious to try to crimp the first crimp tube in at least three but not more than five locations to secure the suture with a desired compression from the crimp tube.

Response to Arguments

5. Applicant's arguments filed 07/09/2009 have been fully considered but they are not persuasive. While it may be correct that the subject invention does not differ from the prior art by mere differences in temperature or concentrations, but the optimum range of number of times for crimping the crimping tube involves only routine skill in the

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art. Alternatively, it is obvious to try to crimp the first crimp tube in at least three but not more than five locations to secure the suture with a desired compression from the crimp tube.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JING OU whose telephone number is (571)270-5036. The examiner can normally be reached on M-F 7:30am - 5:00pm, Alternative Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Uyen (Jackie) T Ho can be reached on (571)272-4696. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JO

/(Jackie) Tan-Uyen T. Ho/
Supervisory Patent Examiner, Art Unit 3773